

CONDITIONAL EXCLUSIONS RELATED TO ACTS OF TERRORISM CHECKLIST

This checklist shall be completed and submitted with all form filings intended to comply with [Bulletin 2004-10](#) uncertainty Related to Expiration of the Terrorism Insurance Act of 2002 (“TRIA”) Exclusions Related to Acts of Terrorism *and* [Bulletin 2005-01](#) Massachusetts Form and Rate Filing Requirements and Procedures to Supplement [Bulletin 2004-10](#)

Please refer to the Module for a specific product line for appropriate rate filing checklists.

CONDITIONAL EXCLUSIONS RELATED TO ACTS OF TERRORISM CHECKLIST

- _____ An officer authorized to sign on behalf of the issuing company(s) certifies that the existing, revised, or proposed form(s) being filed comply with all provisions of Bulletin 2004-10 (11/19/04), and Bulletin 2005-01 (01/14/05).
- _____ The endorsement is clearly labeled as “conditional”.
- _____ The conditional endorsement states that limitations in coverage will apply only if Congress fails to enact an extension to the Terrorism Risk Insurance Act of 2002 (TRIA) or enacts changes to TRIA that substantially change the risk of loss that an insurer or policyholder has assumed.
- _____ The conditional endorsement states that without an extension of TRIA, coverage for terrorism related claims are changed as identified within the conditional endorsement.
- _____ The conditional endorsement will not be used with worker’s compensation, personal automobile, or fire coverage policies.
- _____ Acts of terrorism is defined as follows or in a way more liberal to policyholders.
“Terrorism” means activities against persons, organizations or property of any nature, the effect of which is either to (i) intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or (ii) further political , ideological, religious, social or economic objectives or to express (or to express opposition to) a philosophy or ideology; but only when such activities involve the following or preparation for the following:
- Use or threat of force or violence; or
 - Commission or threat of a dangerous act; or
 - Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system.

CONDITIONAL EXCLUSIONS RELATED TO ACTS OF TERRORISM CHECKLIST

_____ For policies providing property insurance coverage, the filing must include language indicating that the following limitations are in effect:

- An exclusion for acts of terrorism shall apply only if the acts of terrorism result in industry-wide insured losses that exceed \$25,000,000 for related incidents that occur within a 72 hour period; provided, however, that exclusions for acts of terrorism are not subject to the above limitation if:
 - The act involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
 - The act is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
 - Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

_____ For policies providing liability insurance coverage, the filing must include language indicating that the following limitations are in effect:

- An exclusion for acts of terrorism shall apply only if either (i) the acts of terrorism result in industry-wide insured losses that exceed \$25,000,000 for related incidents that occur within a 72 hour period; or (ii) fifty or more persons sustain death or serious physical injury as a result of the act.
- For purposes of this provision "serious physical injury" means:
 - Physical injury that involves a substantial risk of death;
 - Protracted and obvious physical disfigurement; or
 - Protracted loss of or impairment of the function of a bodily member or organ.
- Exclusions for acts of terrorism are not subject to the limitations above if:
 - The act involves the use, release or escape of nuclear materials, or that directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
 - The act is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
 - Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

CONDITIONAL EXCLUSIONS RELATED TO ACTS OF TERRORISM CHECKLIST

_____ ***The endorsement or associated document filed provides space for the insured's signature in which the insured indicates that he or she understands that without an extension to TRIA, the policy's coverage for terrorism-related claims will change as described in the endorsement.

***** An acceptable alternative to this requirement is:**

_____ An officer authorized to sign on behalf of the issuing company(s) certifies that the following procedures have been instituted:

1. Coverage for certified acts of terrorism is made available in accordance with Section 103 (c) of the Terrorism Risk Insurance Act 2002 ("TRIA");
2. Clear and conspicuous disclosure of the premium for such coverage is given in accordance with Section 103 (b) of TRIA; and
3. A clear and conspicuous notice of any change in coverage for losses resulting from an act of terrorism if TRIA terminates or is extended under different terms, independent from any conditional endorsement, is provided at the time that a new policy is offered or issued or a policy is renewed. The change in coverage will apply regardless of whether the insured elected to purchase coverage for certified acts of terrorism at the inception of the policy.